



## STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended	<b>5/17/00</b>	Bill No:	<b>AB 2114</b>
Tax:	<b>Motor Vehicle Fuel Diesel Fuel</b>	Author:	<b>Longville</b>
Board Position:	<b>Neutral</b>	Related Bills:	

### **BILL SUMMARY:**

This bill would revise the Motor Vehicle Fuel License Tax Law to mirror the state Diesel Fuel Tax Law and Federal Fuel Tax Law with respect to definitions, imposition of tax and exemptions.

### **ANALYSIS:**

#### Current Law

Under current law, an excise tax of \$0.18 per gallon is imposed on both motor vehicle fuel (gasoline) and diesel fuel. For use fuels such as liquefied petroleum gas, compressed natural gas, ethanol, and methanol, the excise tax rates are \$0.06, \$0.07, \$0.09 and \$0.09, respectively.

The excise tax on gasoline is imposed upon distributors for the privilege of distributing gasoline on the distribution of such fuel in this state. Distribution includes refining, producing, blending, or compounding gasoline in this state coupled with the sale, donation, consignment for sale, barter, or use of the fuel in this state. Distribution also includes importing into this state, coupled with the sale, donation, consignment for sale, barter, or use of the fuel in this state. The first distribution of gasoline generally occurs at the highest point in the distribution chain, before the gasoline leaves the refinery by way of a terminal rack or pipeline.

By contrast, the collection point of the excise tax on diesel is at the terminal rack level. The terminal rack level is a level in the distribution chain at a refinery or at a storage and distribution facility at the end of a pipeline where diesel fuel is delivered through a mechanism (the rack as it leaves the refinery or storage facility) into ground transportation, such as a truck, trailer, or railroad car.

#### Proposed Law:

This bill would revise the Motor Vehicle Fuel License Tax Law to conform to the state Diesel Fuel Tax Law and Federal Fuel Tax Law by moving the collection point of the tax from the first distribution level to the refinery or terminal rack level. Additionally, this bill would conform the Motor Vehicle Fuel License Tax Law to the state Diesel Fuel Tax Law and Federal Fuel Tax Law with respect to definitions and exemptions.

*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.*

This bill would also provide for a backup tax, which would apply to gasoline delivered into the fuel tank of a motor vehicle fuel-powered highway vehicle or the sale of gasoline when the tax has been refunded on the fuel, or the liquid has not been taxed. Furthermore, this bill would rename the Motor Vehicle Fuel License Tax Law to the Motor Vehicle Fuel Tax Law.

This bill also provides for a floor stock tax, which would be imposed on gasoline owned on January 1, 2002 by a distributor (supplier) in the distribution chain below the refinery or terminal rack on which a tax has not been charged. This would be the case when a distributor owns a retail service station where the fuel at the station was not yet "distributed" and therefore was not yet taxed.

Background:

In 1990, voters approved Senate Constitutional Amendment 1 at the June direct primary election. Approval of this measure made operative Assembly Bill 471 (Ch. 106, Stats. 1989) and Senate Bill 300 (Ch. 105, Stats. 1989). These bills, among other things, increased the rate of tax imposed on most motor vehicle fuels from \$0.09 to \$0.14 per gallon, effective August 1, 1990. Further, on January 1, 1991, and each January 1 through 1994 thereafter, the excise tax increased by \$0.01 per gallon to the current \$0.18 per gallon.

**COMMENTS:**

1. Sponsor and purpose. Assembly Member Longville is the sponsor of this bill. This bill is intended to make conforming changes to the current method of tax collection of gasoline in California so that it is in line with the current Federal Fuel Tax Law and state Diesel Fuel Tax Law. Uniformity between the state and federal fuel taxes is intended to simplify accounting and reporting procedures for taxpayers.
2. Amendments contained in this version of the bill. As amended, this bill mirrors the Motor Vehicle Fuel License Tax Law to the state Diesel Fuel Tax Law and Federal Fuel Tax Law on gasoline, including the imposition of tax, definitions and exemptions. The previous version of the bill only mirrored the Motor Vehicle Fuel License Tax and state Diesel Fuel Tax and Federal Fuel Tax Law with respect to the point of collection of the tax. The current version of this bill also renames the "Motor Vehicle Fuel License Tax Law" to "Motor Vehicle Fuel Tax Law", and incorporates backup tax and floor stock tax provisions.

These amendments also move the operative date for the provisions contained in the bill to January 1, 2002. This Board proposed amendment would allow adequate time for purposes of reprogramming not only for the Board, but also for industry.

Additionally, this bill closes a loophole in the Diesel Fuel Tax Law where a liquid is converted into diesel fuel outside the bulk transfer/terminal system by revising the definition of "blender" and "blended diesel fuel."

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3. The point of collecting the California motor vehicle fuel license tax would mirror the federal law. In 1987, the federal government moved the imposition of the federal fuel tax for gasoline to the terminal rack level. This bill would follow the federal government's lead by moving the collection point of the state excise tax on gasoline. As such, the point of taxation would be the same for both federal and California fuel taxes.
4. Another method of tracking fuel. In 1998, the Internal Revenue Service received \$10 million in funding from Congress to develop an Excise Fuel Information Reporting System (ExFIRS) in cooperation with a task force representing the states and the petroleum industry. The system will be designed to track fuel into and out of the terminal and includes independent verification from third parties, requires total accountability, facilitates cooperation between federal and state governments, provides timely data to tax agencies, and utilizes uniform codes and Electronic Data Interchange (EDI) maps. The Internal Revenue Service has a target date of October 1, 2000 for the ExFIRS system to be in place, and the ExFIRS system will be a tremendous aid in deterring fuel tax evasion for any state that taxes fuel at the rack. Accordingly, this bill would also provide the Board another method of verifying the number of gallons reported as removed from the terminal.
5. The measure would resolve problems in the administration of the motor vehicle fuel license tax. Motor vehicle fuel is traded, exchanged and sold in the pipeline or terminal in order to have the fuel at the correct location for a distributor. These transactions above the rack result in problems in the administration of the tax for both the taxpayer and Board as follows:
  - (a) There are numerous transactions above the rack between qualified distributors that are exempt from the Motor Vehicle Fuel License Tax, but must be reported and verified on the tax return.
  - (b) Since the Internal Revenue Service taxes fuel at the rack, all fuel in the pipeline and terminal is ex-tax fuel for federal purposes. That same fuel may be tax-paid fuel for state purposes, thereby requiring the taxpayers to maintain two sets of records (state and federal) in order to account for the fuel above the rack.
  - (c) There is a shifting point of taxation for fuel in California. Since the tax is imposed upon the distribution in this state, the point must be determined for each movement of motor vehicle fuel. For the most part, qualified distributors each operate a refinery within the state. Depending on when the qualified distributor makes the distribution of fuel, the point of taxation could occur when the fuel leaves the refinery, while it is in transit in a pipeline, while it is in storage at a pipeline terminal, when it is removed from the pipeline terminal, or even when it is sold through a retail pump at a service station.

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**COST ESTIMATE:**

To conform the Motor Vehicle Fuel License Tax Law to the state Diesel Fuel Tax Law and Federal Fuel Tax Law, the Board would incur the following additional costs:

<u>Fiscal Year</u>	<u>Cost</u>
2000/01	\$2,826,000
2001/02	\$4,811,000
2002/03	\$4,135,000
2003/04(ongoing)	\$2,994,000

The one-time costs include notifying taxpayers, revising Board forms and publications, designing a reporting system, automating a reporting and audit system, computer programming, identifying and registering additional taxpayers, revising returns, and revising manuals. On-going costs include return processing, manipulating information received from the Internal Revenue Service's EXFIRS, and increased compliance and audit efforts due to additional taxpayers.

**REVENUE ESTIMATE:**

Revising the Motor Vehicle Fuel License Tax Law to mirror the state Diesel Fuel Tax Law and the Federal Fuel Tax Law would result in a revenue increase of about \$20 million over calendar year 2001, the year prior to the effective date of this bill. We estimate this revenue increase would be contained within calendar years 2002 and 2003, with the revenue stabilizing in calendar year 2004. The resulting increase and subsequent stabilization of revenue would occur because this bill would move the imposition of tax to the terminal rack level allowing the Board to take advantage of the Internal Revenue Service's ExFIRS system, which would be a tremendous aid in deterring fuel tax evasion.

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